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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,833	06/18/2001	Keiichi Mori	01367/LH	9961
1933	7590	10/19/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 5TH AVE FL 16 NEW YORK, NY 10001-7708			HENN, TIMOTHY J	
			ART UNIT	PAPER NUMBER
			2612	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,833

Applicant(s)

MORI ET AL.

Examiner

Timothy J. Henn

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-13, 15, 20-23, 25, 29 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-13, 15, 20-23 and 25 is/are allowed.
- 6) ☒ Claim(s) 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see response, filed 27 July 2005, with respect to claims 13, 15, 23 and 25 have been fully considered and are persuasive. The rejection of claims 13, 15, 23 and 25 has been withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuda (JP 2000-138862).

[claim 29]

Regarding claim 29, Matsuda discloses an imaging apparatus for photographing a subject comprising: an image pickup device for receiving light rays transferred from the subject, a photographic subject image being formed on the image pickup device and the image being converted to an original image signal (Figure 1, Item 4); designating means for designating one of a first gradation mode and a second gradation mode (Figures 2 and 3; Paragraph 0022); converting means for converting the original image signal from the image pickup device to an output image signal in accordance with the designated one of first and second gradation modes, such that the original image signal

is converted to the output image signal with a first gradation characteristic when the first gradation mode is designated, and such that the original image signal is converted to the output image signal with a second gradation characteristic when the second gradation mode is designated (Figure 3; Paragraph 0018); and exposure controlling means (Figure 1, Items 5 and 11) for controlling an exposure level of the photographic subject image in accordance with the designated mode, such that the exposure level is controlled to a predetermined exposure level when the first gradation mode is designated, and such that the exposure level is controlled to the same predetermined exposure level different from the predetermined brightness level when the second gradation mode is designated.

The examiner notes that in a first gradation mode the camera of Matsuda will perform auto-exposure to take an image which is not over-exposed or under-exposed. This image will then be transformed with a selected gradation curve (Figure 3) to create an output image with a predetermined brightness level (i.e. determined by the data output from the CCD and the selected gradation curve which is known before creating the output image). If a second gradation mode is chosen the camera of Matsuda would create an image using the same exposure conditions which would in turn be transformed using a different gradation curve (Figure 3) resulting in an image with a brightness level different from the brightness level that would be obtained through using the first gradation mode.

[claim 30]

Claim 30 is a method claim corresponding to apparatus claim 29. Therefore, claim 30 is analyzed and rejected as previously discussed with respect to claim 29.

Allowable Subject Matter

4. Claims 10-13, 15, 20-23 and 25 allowed.

[claims 20-22]

The following is a statement of reasons for the indication of allowable subject matter: Regarding claims 20-22 the prior art does not teach an apparatus or method which converts an image using first or second gradation property curves and adjusts the output image to have an average level of substantially a constant level, wherein the first and second gradation property curves intersect at a certain target value and the target value substantially corresponds to the average output level of the output image signal as claimed.

[claims 13, 15, 23 and 25]

Regarding claims 13, 15, 23 and 25 the prior art does not teach or fairly suggest an imaging apparatus or method which converts an image using first, second or third gradation curves corresponding to first, second and third gradation modes wherein the first, second and third gradation curves intersect at substantially the same intersection point corresponding to 18% to 20% of a maximum signal level in a value on an input side of a gradation converting portion as claimed.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Henn whose telephone number is (571) 272-7310. The examiner can normally be reached on M-F 9:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJH
10/12/2005



NGOC-YEN VU
PRIMARY EXAMINER